

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Criminal Action No. 1:07-cr-00090-WYD

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. B&H MAINTENANCE & CONSTRUCTION, INC., a New Mexico corporation;
2. JON PAUL SMITH a/k/a J.P. SMITH; and
3. LANDON R. MARTIN,

Defendants.

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**UNITED STATES' RESPONSE TO "MOTION BY DEFENDANT SMITH FOR A BILL  
OF PARTICULARS BASED UPON THE STATE OF DISCOVERY" [Docket # 85]**

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The United States hereby responds to Defendant Jon Paul Smith's ("Smith") Motion for a Bill of Particulars (Docket # 85). The Indictment and the extensive discovery afforded to the Defendants are sufficient to: fully apprise them of the nature of the charge against them; allow them to prepare their defenses; minimize surprise at trial; and plead double jeopardy if later prosecuted for the same offense. In addition, in response to motions for a Bill of Particulars previously filed by Defendants B&H Maintenance & Construction, Inc. ("B&H") and Landon Martin ("Martin")<sup>1</sup>, the United States voluntarily provided additional information.<sup>2</sup> Defendant

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<sup>1</sup> Defendant B&H's Motion For a Bill of Particulars (Docket # 42) hereinafter referred to as B&H Mot. Docket # 42 and Landon Martin's Motion For Leave to Join in Defendant B&H's

Smith now requests virtually the same information sought by Defendants B&H and Martin.<sup>3</sup>

Therefore, a Bill of Particulars is not warranted in this case.

**I. Defendant Smith's Request for Identification of Projects That Were Rigged**

Defendant Smith first requests identification of the projects that were rigged by the defendants in this case. On August 1, 2007, in its response to the motions filed by Defendants B&H and Martin for a Bill of Particulars, (B&H Mot. Docket # 42 and Martin Mot. Docket # 48) the United States provided a Voluntary Bill of Particulars that included a list of the projects that were rigged by the conspirators in this case. *See* United States' Response Docket #59 at p. 6-7.

For convenience, the United States reproduces the list here:

Bayfield 20" Main Loop  
(also identified as Bayfield Main Loop)  
Salvador 10" Loop  
(also identified as Salvador SW Loop)  
  
Buford Waytt GU No. 2  
Lash Ute GU No. 2  
Martinez BU/B No. 1  
Schofield GU No. 2  
Southern Ute 2-21X No. 2

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Motion For a Bill of Particulars and Supplemental Statement in Support Thereof (Docket # 48), hereinafter Martin Mot. Docket # 48.

<sup>2</sup> *See* United States' Response to "Defendant B&H's Motion For a Bill of Particulars" (Docket # 42) and "Landon Martin's Motion For Leave to Join in Defendant B&H's Motion For a Bill of Particulars and Supplemental Statement in Support Thereof" (Docket # 48) (Docket # 59), hereinafter United States' Response Docket # 59.

<sup>3</sup> The United States incorporates the United States' Response Docket #59 into this Response.

Mayfield South Loop  
Sauls Creek Loop

## **II. Defendant Smith's Other Requests For Particulars**

Defendants Smith's request for particulars in paragraph 6 of his Motion is nearly identical to the request made by Defendant B&H in B&H Mot. Docket # 42 at ¶ 7, which was joined by Defendant Martin. Martin Mot. Docket # 48. The United States stands by its response to Defendant B&H's and Martin's motions for a Bill of Particulars. *See* United States' Response Docket # 59.

## **III. Conclusion**

For the reasons stated above and in the United States Response Docket # 59, a Bill of Particulars is not warranted.

Respectfully Submitted,

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s/Diane Lotko-Baker

DIANE C. LOTKO-BAKER

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s/Carla M. Stern

CARLA M. STERN

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**CERTIFICATE OF SERVICE**

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I hereby certify that on October 22, 2007, I electronically filed United States' Response to "Motion by Defendant Smith for a Bill of Particulars Based Upon the State of Discovery" [Docket # 85] with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

gjohnson@hmflaw.com

hhaddon@hmflaw.com

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patrick-j-burke@msn.com

markjohnson297@hotmail.com

I hereby certify that I have mailed or served the document or paper to the following non CM/ECF participants in the manner indicated by the non-participant's name:

None.

Respectfully Submitted,

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s/Diane Lotko-Baker

DIANE C. LOTKO-BAKER

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s/Carla M. Stern

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